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OFFICE OF PETITIONS

In re Application of
McCarthy, et al.
Application No. 09/673,739
Filed: October 20, 2000
Attorney Docket No. 1377-156P

ON PETITION

This is a decision on the petition filed on August 29, 2002, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed February 8, 2002. This Office action set a shortened statutory period for reply of three (3) months. On July 5, 2002, applicant obtained a two month extension of time and filed an amendment in response to the final Office action. However, by Advisory Action mailed July 30, 2002, the examiner informed applicant that the amendment would not be entered because it failed to place the application in condition for allowance. No further reply with an extension of time having been filed, the above-identified application became abandoned on July 9, 2002. The mailing of this decision precedes the mailing of a Notice of Abandonment.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and filed a Notice of Appeal (with fee) in response to the final Office action.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the \$260 fee for the additional one month extension of time submitted with the petition on August 29, 2002 was subsequent to the maximum period obtainable for reply (August 8, 20002), this fee has been refunded to Deposit Account No. 02-2448.

Please be advised that the two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)) runs from the date of this decision.

The application file is being returned to Technology Center 1600 to await for petitioner's submission of the appeal brief.

Telephone inquiries specific to this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
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for Patent Examination Policy